



City of Seattle

Department of Planning and Development
D. M. Sugimura, Director

CITY OF SEATTLE ANALYSIS AND DECISION OF THE DIRECTOR OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT

Application Number: 3012783
Applicant Name: Keith Beckley
Address of Proposal: 508 – 34th Avenue

SUMMARY OF PROPOSED ACTION

Land Use Application to replace a 210 sq. ft. garage with a two-story 437 sq. ft. garage in an environmentally critical area.

The following approvals are required:

ECA Variance – to allow disturbance within a steep slope area and steep slope buffer.
Section 25.09.180.E

SEPA Determination: ☒ Exempt ☐ DNS ☐ MDNS ☐ EIS
☐ DNS with conditions
☐ DNS involving non-exempt grading or demolition
or involving another agency with jurisdiction.

BACKGROUND INFORMATION

Site Description

The site is located on 34th Ave., on a hillside above Lake Washington near Leschi Park in east Seattle. The subject property has a lot area of 10, 298 sq. ft. and is zoned Single Family (SF 5000) as is the surrounding property. The property slopes down from the west to the east, and the southeast quarter (2,064 sq. ft.) of the site is designated as a steep slope environmentally critical area (ECA). The property is currently developed with a single family residence and garage, a small shed and an existing retaining wall. There are two large oak trees on site that qualify to be designated as “exceptional trees” per Director’s Rule 16-2008. These are a *Quercus palustris* (Pin Oak) with a 34.5 inch diameter at breast height (dbm) and a *Quercus garryana* (Garry Oak) with a 30” dbh.

Description of Proposal

The applicant proposes to construct a two-story structure accessory with a 437 sq. ft. footprint, and demolish an existing 210 sq. ft. garage. The ground floor of the proposed accessory structure would be used as a two-car garage and the second floor is labeled 'studio' on the plans. The existing garage to be demolished is located in the required front yard along 34th Ave. The proposed garage is to be located about 30 feet east of the western (front) property line, five feet north of the southern (side) property line, at the top at the top of the slope. The proposed accessory structure is located within the steep slope and steep slope buffer environmentally critical areas (ECA). Disturbance of the steep slope ECA and ECA buffer requires variance approval.

The maximum disturbance of a steep slope ECA allowed by variance under SMC 25.09.180 is 30 percent of the steep slope area. The survey submitted by the applicant shows a steep slope area of 2,064 sq. ft. The plans and other material in the project file describe a proposed disturbed area of 171 sq. ft., or 8.3 percent. However, when the disturbance area shown on Sheet 7 of the plan set is scaled, the actual disturbed area including construction disturbance is approximately 287.5 sq. ft., or 14 percent of the steep slope area.

The proposed accessory structure is sited to minimize disturbance of the two exceptional oak trees, as well as the steep slope ECA and buffer. The proposed driveway will be located in the same area as the existing garage (to be demolished), and the foundation of the existing garage will remain to minimize disturbance to the exceptional trees.

Public Comment

Notice of the proposal was issued on November 10, 2011 and ended on November 23, 2011. One comment letter was received.

Environmentally Critical Areas Regulations

General Requirements and standards are described in Section 25.09.060 of the ECA ordinance (SMC Chapter 25.09). SMC Section 25.09.180 provides specific standards for all development on steep slopes and steep slope buffers on existing lots, including the general requirement that development shall be avoided in these areas whenever possible. Trees and vegetation standards are found at SMC 25.09.320.

ANALYSIS – STEEP SLOPE AREA VARIANCE

The applicant has requested variances from the requirements of the environmentally critical areas ordinance: ECA Variance to disturb a steep slope buffer, and ECA Variance to disturb a steep slope.

Pursuant to SMC 25.09.180.E the Director may allow disturbance of the steep slope area buffer and authorize limited development in the steep slope area and buffer only when all of the facts and conditions stated in the numbered paragraphs below are found to exist:

SMC 25.09.180.E. Steep Slope Area Variance.

1. The Director may reduce the steep slope area buffer and may authorize limited intrusion into the steep slope area and steep slope buffer to the extent allowed in subsection E2 only when the applicant qualifies for a variance by demonstrating that:

a. the lot where the steep slope or steep slope buffer is located was in existence before October 31, 1992; and

The subject property is an historically platted lot. This criterion is met.

b. the proposed development otherwise meets the criteria for granting a variance under Section 25.09.280 ~~E-E~~B, except that reducing the front or rear yard or setbacks will not both mitigate the hardship and maintain the full steep slope area buffer.

The property is already developed with a single family residence which is located on the northwest corner of the property and a shed on the northeast corner. As shown by the topographic survey and site plan, an area of 2,064 sq. ft. on the southeast portion of the site is designated as a steep slope ECA. There is an existing rock wall along the top of the slope. A fifteen-foot steep slope buffer encompasses an area immediately west of the steep slope. The site is also encumbered with the presence of two exceptional oak trees, designated according to DPD Director's Rule 16-2008. SMC Chapter 25.11 encourages retention of exceptional trees and places restrictions on their removal.

Non-disturbance areas for both trees are delineated on Page 8 in the plan set dated June 13, 2012. This page includes a letter from the applicant's arborist, James E. Smith of Smith Brothers Tree Service, with a note labeled: "Update to my original report", signed by James E. Smith. That note reads in full:

"The drawing included is an accurate depiction of the drip lines of the two mature oaks on the site. The drawing is based on site measurements pulled from the tree trunks and existing house. The drip circles on the surveyors plan do not accurately represent the full extent of the drip lines.

As stated above in the original report the proposed location for the garage is, in my opinion, the location that best protects the mature oak trees. There is no alternate location that would not have negative (sic) on the tree."

The arborist's original report is also included in full on Page 8, and includes suggestions for protection of the trees during construction. These include the following:

- As roots are encountered when digging the future foundation wall, they should be cut cleanly with no rips or tears, using the appropriate tools.

- A vegetation protection fence minimum 4' high of orange polyethylene per page 7 of the plans will protect the tree during construction.

The arborist's report also observes that potential tree damage is not anticipated from leaving the existing garage foundation and slab in place, to be used as part of the driveway for the proposed garage. Stockpiling of excavated materials on the foundation/slab area during construction will also be permitted.

Page 6 shows the location of the proposed driveway, which would be in the same area of the existing garage (to be demolished) to further minimize impact on the tree. The driveway is not dimensioned, but scales at about 10 to 13 feet in width.

The tree protection measures and driveway location and width will be required as conditions of variance approval.

Given the location of the existing development, and the location of the exceptional trees, reduction of the required front or rear yards would not result in an alternate location for a new garage and access outside of the steep slope and steep slope buffers. Therefore, it does not fully mitigate the hardship created by the strict application of the steep slope standards, nor does it maintain the full steep slope buffer.

Criteria and responses for granting a variance found in SMC 25.09.280.B are discussed below:

SMC 25.09.280.B. Yard and setback reduction and variance to preserve ECA buffers and riparian corridor management areas.

The Director may approve a yard or setback reduction greater than five feet (5') in order to maintain the full width of the riparian management area, wetland buffer or steep-slope area buffer through an environmentally critical areas yard or setback reduction variance when the following facts and conditions exist:

- 1. The lot has been in existence as a legal building site prior to October 31, 1992.***

See response to SMC 25.09.180.E.1.a, above.

- 2. Because of the location of the subject property in or abutting an environmentally critical area or areas and the size and extent of any required environmentally critical areas buffer, the strict application of the applicable yard or setback requirements of Title 23 would cause unnecessary hardship; and***

See response to SMC 25.09.180.E.1.b, above.

- 3. The requested variance does not go beyond the minimum to stay out of the full width of the riparian management area or required buffer and to afford relief; and***

This criterion is not applicable since there is no riparian management area or required (riparian) buffer on-site.

4. The granting of the variance will not be injurious to safety or to the property or improvements in the zone or vicinity in which the property is located; and

The applicant has provided a geotechnical report (“Dennis M. Bruce, P.E., Geotechnical Evaluation – New Garage Location” dated April 20, 2010) and additional information in response to DPD correction notices (dated June 9, 2012) which were reviewed by DPD’s geotechnical engineer and approved on June 25, 2012.

Drainage from the new development will be directed to the street, in the same area as the proposed driveway, as shown on the plans, to prevent any further disturbance of the steep slope. This drainage plan will be further detailed and reviewed during review of the associated building permit.

Granting the variance to minimally intrude into the steep slope areas will not be injurious to safety, property, or improvements in the zone or vicinity.

5. The yard or setback reduction will not result in a development that is materially detrimental to the character, design and streetscape of the surrounding neighborhood, considering such factors as height, bulk, scale, yards, pedestrian environment, and amount of vegetation remaining; and

As discussed above, the applicant is not requesting a variance for a reduced front yard, since such a reduction would not mitigate the hardship or allow or maintain the full steep slope buffer. However, the applicant has incorporated project elements that maintain neighborhood character, including retention of the existing exceptional trees, the orientation of the proposed structure that will maintain an existing view corridor across the property, and a landscape plan with both ornamentals and native plants (for replanting disturbed areas in the ECA). The landscape plan is an ECA code requirement and must be incorporated into the associated building permit in order for the project to be approved.

6. The requested variance would be consistent with the spirit and purpose of the environmentally critical policies and regulations.

The environmentally critical policies and regulations were created to protect ecological functions, prevent erosion and protect the public health, safety and welfare in landslide-prone (including steep slope) areas, and to permit landowners reasonable development and avoid development that causes injury to persons, property, public resources or the environment.

The applicant proposes to construct a 437 sq. ft. structure (garage with second story studio) accessory to an existing single family residence. The site is characterized by both steep slopes and exceptional trees, which limit the potential areas of the property where structures may be located. Disturbed areas will be re-vegetated with native vegetation. Variance relief is necessary to allow reasonable development of the property. The proposal would be consistent with the spirit and purpose of the environmentally critical policies and regulations.

C. When an environmentally critical areas variance is authorized, the Director may attach conditions regarding the location, character and other features of a proposed development to carry out the spirit and purpose of this chapter.

Conditions regarding tree protection during construction and driveway location and width will be required. Please see discussion under SMC 25.09.180.E.3, below.

SMC 25.09.180.E. Steep Slope Area Variance.

2. If any buffer reduction or development in the critical area is authorized by a variance under subsection E1, it shall be the minimum to afford relief from the hardship and shall be in the following sequence of priority:

- a. reduce the yards and setbacks, to the extent reducing the yards or setbacks is not injurious to safety;***
- b. reduce the steep slope area buffer;***
- c. allow an intrusion into not more than thirty percent (30%) of the steep slope area.***

As discussed above, the applicant is not requesting a variance for a reduced front yard, since such a reduction would not mitigate the hardship or allow or maintain the full steep slope buffer. A buffer reduction alone would not provide a large enough building area to build a functional garage and avoid the drip line areas of the exceptional trees. The total lot area is 10, 298 sq. ft., of which 2,064 sq. ft. is designated as steep slope. The proposed accessory structure includes a ground floor to be used as a garage and a second floor to be used as a studio. The intrusion into the steep slope, including all site disturbance, totals 14% of the total steep slope area when scaled off of the plans. The proposed development follows the sequence of priority and does not create an intrusion of more than 30% of the steep slope area. The proposal therefore meets this criterion.

3. The Director may impose additional conditions on the location and other features of the proposed development as necessary to carry out the purpose of this chapter and mitigate the reduction or loss of the yard, setback, or steep slope area or buffer.

The proposed accessory structure is designed to be minimally intrusive into the ECA and buffer, with a total steep slope ECA disturbance of 14%. Disturbed areas will be required to be re-vegetated with native vegetation, as shown on Page 6, as an ECA code requirement. A non-disturbance area covenant is required by the ECA code and will be required for all ECA areas not included in the 14% disturbance area. In addition, to prevent any further disturbance within the drip lines of the exceptional oak trees, the trees will be required to be protected during construction according to the recommendations of the applicant's Arborist, and the driveway will be required to be as shown on the plans and limited to a width not to exceed 33 feet at any point.

ECA CODE REQUIREMENTS:

- The owner and/or responsible party shall provide a signed and notarized ECA Non-disturbance Covenant to the Land Use Planner for recording. Addendum A of the covenant shall include a site plan with hatching to indicate the area identified as the non-disturbance area by the survey and install the permanent visible ECA markers established at the edge of the non-disturbance area ECA (in accordance with instructions contained in Director's Rule 4-2007).
- The landscape plan shown on Page 6 must be incorporated into the building permit set of plans.

DECISION – STEEP SLOPE AREAS VARIANCE:

CONDITIONALLY GRANTED.

CONDITIONS OF VARIANCE APPROVAL:

During Construction

1. As roots are encountered when digging the future foundation wall, they should be cut cleanly with no rips or tears, using the appropriate tools.
2. A vegetation protection fence minimum 4' high of orange polyethylene will protect the trees during construction.

For the life of the project

3. To maximize protection of the exceptional *Quercus palustris*, the new driveway will be in the location shown on Page 6, and will not exceed 13 feet in width at any point.

Signature: _____ (signature on file) Date: July 30, 2012
Molly Hurley, Senior Land Use Planner
Department of Planning and Development

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